

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 2132 - SB 2756

February 19, 2020

SUMMARY OF BILL: Requires governmental entities to provide access to certain documents on their websites, no later than January 1, 2021. Prohibits governmental entities from assessing fees for copies of such documentation.

ESTIMATED FISCAL IMPACT:

Decrease Local Revenue – Exceeds \$5,000/FY20-21 and Subsequent Years

Increase Local Expenditures – Exceeds \$10,000/FY20-21*

Assumptions:

- The proposed language is applicable to all governmental entities which are governed by bodies subject to the Sunshine Law, pursuant to Tenn. Code Ann. § 8-44-102.
- Applicable entities are required to provide upcoming meeting agendas and supplemental meeting information. If the entity maintains a website, posting to such website satisfies these requirements.
- Applicable entities are required to make the following documents available to the public in hard copy and on an entity's website, if one exists, no later than January 1, 2021:
 - The contact information of elected officials and members of each governing body;
 - Minutes of the last 12 most recent meetings;
 - The comprehensive annual financial reports and audits from the previous five years;
 - The entity's charter or other organizing documents;
 - Policies, rules, ordinances, and resolutions governing the public meetings, public hearings, and public records of each governing body; and
 - The contact information of a person to contact for more information.
- Governmental entities are also required to make reasonable, periodic efforts to notify the public of where such documents are available each year. Parameters for such notification are not provided; however it is assumed such notice will be accomplished either on the entity's website itself, or a printed notification available at the entity's physical address. Such notification is not estimated to result in any significant fiscal impact to state or local government.
- According to Strategic Technology Solutions (STS) within the Department of Finance and Administration, all state agencies currently have a web presence and the

requirements of the proposed legislation will not result in any significant fiscal impact to the state.

- The proposed language requires entities which maintain a website to post all of the required information to the entity's website. Not all local governments maintain a website, and some have a presence on a third party's website, such as a chamber of commerce.
- Based on responses to the 2017 Local Government Survey conducted by the Fiscal Review Committee staff, participating local government officials reported that websites are maintained either by a staff person or an outside contractor.
- Local government entities who maintain a website and do not currently have all the required information posted and cataloged will experience a one-time increase in expenditures in order to comply with the required postings. The precise mandatory increase in local expenditures for posting such information to websites will vary but is reasonably estimated to exceed \$10,000 statewide. Such expenditures are mandatory and will occur in FY20-21.
- The proposed language prohibits governmental entities from charging for copies of such information or documentation.
- Based on the Office of Open Record Counsel's Schedule of Reasonable Charges, records custodians are authorized to charge a fee from \$0.15 to \$0.50 for copying public documents.
- According to public records request policies established by state government entities, such entities are authorized to charge for copies of public records; however, they reserve the ability to waive such fees when the cost for labor and printing is below a certain threshold. Specific thresholds and requirements vary by entity but are estimated to be waived when below \$10.00.
- While the precise number of requests for copies received by a state governmental entity in any given fiscal year is unknown, it is reasonably assumed that:
 - A majority of requestors locate applicable documents on the State website ;
 - Requestors which do make requests for copies of the applicable public records have costs which are waived by the state entity; and
 - The total amount of fees which are not waived statewide by such entities in any given fiscal year is below \$100.
- Any decrease in state revenue from the prohibition on the assessment of fees for copies is estimated to be not significant.
- While the precise number of requests for copies a local governmental entity will receive in any given fiscal year is unknown, the proposed language is estimated to result in a recurring decrease in local revenue exceeding \$5,000 statewide, beginning in FY20-21.

**Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The script is cursive and fluid.

Krista Lee Carsner, Executive Director

/jrh